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7
8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 In Re:

Case No. 25-10088 WJL

11 Kingsborough Atlas Tree Surgery, Inc.

Chapter 11

12 Debtor.

13 MOTION FOR AUTHORITY TO SELL
PERSONAL PROPERTY BY AUCTION

14
15 Kingsborough Atlas Tree Surgery, Inc. (“Debtor”) hereby moves for authority to sell
16 personal property by auction pursuant to 11 USC § 363(b)

17 SUMMARY OF RELIEF REQUESTED

18 1. This Motion seeks authority to sell by auction Debtor’s titled/certificated assets and
19 from the proceeds pay the lenders that are secured by the assets to be sold, with the balance of the
20 sale proceeds paid to the estate.
21

22 JURISDICTION AND VENUE

23 2. On February 20, 2025, an order for relief under Chapter 11 of Title 11 of the United
24 States Code was entered herein. Debtor is a debtor-in-possession.

25 3. This Court has subject matter jurisdiction over this matter pursuant to the provisions of
26 28 U.S.C .§§ 1334(b) and 157(b)(2)(A), (M), and (O), 11 U.S.C. § 363. Venue is proper here
27 pursuant to the provisions of 28 U.S.C. § 1409.
28

THE AUCTION SALE

A. Terms of Auction Sale

4. When the Chapter 11 was filed, Debtor estimated the value of its titled/certificated trucks and trailers to be in the range of 1.5 to 2.0 million dollars. This total has been reduced by the assets that have been sold with court approval and the assets that were recovered and liquidated by First Financial Holdings. The remaining titled/certificated trucks and trailers are scheduled in Exhibit A.

5. On July 21, 2025, an order was entered appointing Gafe Auction and Dudley Resources (“Gafe”) as online auctioneer to evaluate and liquidate property of the estate. Gafe has agreed to market and sell various pieces of equipment on behalf of Debtor for a commission of 7.5 % of the sale price, exclusive of sales tax. Gafe will also be paid by the purchasers of the equipment an industry-standard buyer’s premium of 15%. At the conclusion of the auction sale, Gafe will also be paid \$62,500 for pre-auction tag/catalog/photography and sale catalog creation, advertising and marketing and post-auction management for this sale as well as the sale of the non-titled assets.

6. There is to be a floor or minimum on equipment that is collateral for titled/certified trucks and trailers that are subject to the security interests held by various lenders such that the secured lenders must be paid in full for the asset being sold unless the secured lender agrees to a different treatment.

B. Proceeds of Sale

7. The proceeds from the sale of the titled or certificated vehicles will be paid to Ford, and any other lender that is secured by titled or certificated vehicles, with the balance of the sale proceeds to be paid to Debtor.

C. The Sale Is in the Best Interest of the Estate

8. 11 U.S.C. Section 363(b) authorizes a debtor in possession to sell property of the
3 Estate outside the ordinary course of business after notice and hearing. Pursuant to FRBP
4 6004(f)(1), this sale may be conducted by either private sale or public auction. "The court's
5 obligation in Section 363(b) sales is to assure that optimal value is realized by the estate under
6 the circumstances. The requirement of a notice and a hearing operates to provide both a means of
7 objecting and a method for attracting interest by prospective purchasers. Ordinarily, Bankruptcy
8 courts typically review a transaction proposed under section 363(b)(1) using a "business
9 judgment" standard. *In re Equity Funding Corp. of Am.*, 519 F.2d 1274, 1277 (9th Cir. 1975).
10 This is a "deferential" standard pursuant to which a "bankruptcy court will generally approve" a
11 reasoned decision by the debtor. *Mission Prod. Holdings v. Tempnology*, LLC 139 S. Ct. 1652
12 at 1658.
13

15 9. There appears to be a significant amount of equity in the assets to be sold that will best
16 be realized from an auction sale. If the unsecured creditors are to benefit from the sale of the
17 titled/certificated trucks and trailers, the assets must be sold in an orderly manner as quickly as
18 possible.
19

WHEREFORE, Debtor prays for an order authorizing the sale of the titled/certificated trucks and trailers on the terms set forth above, and for such other and further relief as the court deems proper.

25 || Dated: August 14, 2025

/s/ Michael C. Fallon

Michael C. Fallon
Attorney for Debtor